

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION - FLINT**

THOMS DEAN, # 197234

Plaintiff(s),

CASE NO.: 05-CV-40106-FL

vs.

HON. PAUL V. GADOLA  
MAG. JUDGE WALLACE CAPEL, JR.

PATRICIA CARUSO,

Defendant.

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**ORDER DENYING PLAINTIFF'S MOTION  
FOR APPOINTMENT OF COUNSEL  
AND ORDER TO FILE RESPONSE**

This matter is before the Court on Plaintiff's Application For Appointment Of Counsel. The Plaintiff, an inmate at the Parnall Correctional Facility brings this action under 42 U.S.C. § 1983. He brings his claims under the Americans With Disabilities Act of 1990, and the Rehabilitation Act of 1973. The Plaintiff alleges that after he was transferred to the Parnall Correctional Facility (SMT) he was informed that "SMT" would not pay him the same rate as other prisoners who worked at the kitchen facility because he received a GED exemption which effectively reduced his rate of pay. He is also asking that the case be certified as a class action.

In support of the request for counsel, the Plaintiff states that he has a learning disability. He further indicates that unless counsel is appointed other similarly situated prisoners will also be discriminated against based upon their disability and unable to address their potential claim of

discrimination. Plaintiff further relates that counsel should be appointed because of the complex

nature of this matter.

Except in rare circumstances, it is the practice of this Court to consider the appointment of counsel in prisoner civil rights cases only after a motion to dismiss or for summary judgment has been decided. While Plaintiff indicates that he does not feel adequately trained in legal issues to handle this case, it appears however, that from reading the Plaintiff's Complaint, he does have an understanding of the matters involved in this case, and is able to articulate his claims and arguments in a reasonable fashion.

**IT IS HEREBY ORDERED** that Plaintiff's motion for appointment of counsel is hereby **DENIED WITHOUT PREJUDICE** pending a review of the dispositive motion in this matter.

**IT IS ALSO ORDERED** that the Plaintiff shall file a response to the Defendant's Rule 12(b)(6) And 42 U.S.C. § 1997 e(a) Motion To Dismiss which was filed on June 14, 2005. The Plaintiff shall file a response within **14 days** after receipt of this order.

**IT IS SO ORDERED.**

The parties are hereby informed that any objection to this order must be filed with the district court within ten days after being served with a copy thereof, pursuant to Rule 72(a), Federal Rules of Civil Procedure.

**DATED: September 27, 2005**

**s/ Wallace Capel, Jr.**  
**WALLACE CAPEL, JR.**  
**UNITED STATES MAGISTRATE JUDGE**

**CERTIFICATE OF SERVICE**

I hereby certify that on September 27, 2005, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: Christine M. Campbell, and I hereby certify that I have mailed by United States Postal service the paper to the following non-ECF participants: Thomas Dean, #197234, Parnall Correctional Facility, 1780 E. Parnall, Jackson, MI 49201

s/James P. Peltier

James P. Peltier  
Courtroom Deputy Clerk  
600 Church St.  
Flint, MI 48502